

LFC Requester:	Scott Sanchez
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**AGENCY BILL ANALYSIS
2024 REGULAR SESSION**

WITHIN 24 HOURS OF BILL POSTING, UPLOAD ANALYSIS TO:

AgencyAnalysis.nmlegis.gov

{Analysis must be uploaded as a PDF}

SECTION I: GENERAL INFORMATION

{Indicate if analysis is on an original bill, amendment, substitute or a correction of a previous bill}

Check all that apply:
Original **Amendment**
Correction **Substitute**

Date January 24, 2024
Bill No: SB 96

Sponsor: Maestas
Short Title: Increase Attempted Murder Penalty

Agency Name and Code NM Sentencing Commission (354)
Number: _____
Person Writing Douglas Carver
Phone: 505-239-8362 **Email** dhmcarver@unm.edu

SECTION II: FISCAL IMPACT

APPROPRIATION (dollars in thousands)

Appropriation		Recurring or Nonrecurring	Fund Affected
FY24	FY25		

(Parenthesis () Indicate Expenditure Decreases)

REVENUE (dollars in thousands)

Estimated Revenue			Recurring or Nonrecurring	Fund Affected
FY24	FY25	FY26		

(Parenthesis () Indicate Expenditure Decreases)

ESTIMATED ADDITIONAL OPERATING BUDGET IMPACT (dollars in thousands)

	FY24	FY25	FY26	3 Year Total Cost	Recurring or Nonrecurring	Fund Affected
Total						

(Parenthesis () Indicate Expenditure Decreases)

Duplicates/Conflicts with/Companion to/Relates to:
Duplicates/Relates to Appropriation in the General Appropriation Act

SECTION III: NARRATIVE

BILL SUMMARY

Synopsis:

SB 96 amends Section 30-28-1, concerning attempts to commit a felony, so that if the crime attempted is murder in the second degree, the person committing the attempted murder is guilty of a third degree felony and, notwithstanding the provisions of Section 31-18-15 NMSA 1978, the basic sentence of imprisonment is nine years. This would differentiate second degree murder from other second degree felonies, as under present law, if the crime attempted is a second degree felony, the person committing such attempt is guilty of a third degree felony.

SB 96 also raises the penalty for a second degree felony resulting in the death of a human being from 15 to 18 years.

FISCAL IMPLICATIONS

Note: major assumptions underlying fiscal impact should be documented.

Note: if additional operating budget impact is estimated, assumptions and calculations should be reported in this section.

SIGNIFICANT ISSUES

SB 96 creates a special third degree felony basic sentence for attempted second degree murder of nine years, in contrast to the present basic sentence for a third degree felony of three years. It is worth noting that the basic sentence for a third degree felony for the death of human being is only six years, so under SB 96 the attempt of second degree murder would have a higher basic sentence than third degree felonies that result in someone's death.

A number of analyses have shown that violent crime, particularly murder, has been trending significantly downward in the past year. See the Gun Violence Archive data at <https://www.gunviolencearchive.org/>; Jeff Asher, "Crime in 2023: Murder Plummeted, Violent and Property Crime Likely Fell Nationally", *Jeff-alytics*, (Dec. 2023) (available at: <https://jasher.substack.com/p/crime-in-2023-murder-plummeted-violent>); and the data for Albuquerque published by the Albuquerque Police Department, available at: <https://www.cabq.gov/police/documents/weekly-homicide-update-31dec2023.pdf>). See also

Curtis Segarra, “FBI’s latest stats show violent crimes trending down statewide, property crimes up”, KOAT (Oct. 2023) (available at: <https://www.krqe.com/plus/data-reporting/fbis-latest-stats-show-violent-crimes-trending-down-statewide-property-crimes-up/>).

It is difficult to determine what the effect of passing SB 96 would be on the state’s prison population, but the penalties included in the bill could lead to people being incarcerated by the Corrections Department for longer periods. As of June 30 2023, there were 481 people incarcerated in the state where second degree murder was their highest offense. There were also six people confined for attempted murder in the second degree as their highest offense. The average per day cost to incarcerate someone in the state’s prison system is \$156.45/day; this average includes private and public facilities.

PERFORMANCE IMPLICATIONS

ADMINISTRATIVE IMPLICATIONS

CONFLICT, DUPLICATION, COMPANIONSHIP, RELATIONSHIP

TECHNICAL ISSUES

OTHER SUBSTANTIVE ISSUES

ALTERNATIVES

WHAT WILL BE THE CONSEQUENCES OF NOT ENACTING THIS BILL

AMENDMENTS